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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|--------------------------|------------------|
| 10/814,664 | 03/31/2004 | Nicholas Grande | 04-016-NG | 5900 |
| 7590 Lambert & Associates Suite 200 92 State Street Boston, MA 02109 | | | EXAMINER SOLD, JENA A | |
| | | | ART UNIT 3765 | PAPER NUMBER |
| SHORTENED STATUTORY PERIOD OF RESPONSE | | MAIL DATE | DELIVERY MODE | |
| 3 MONTHS | | 04/12/2007 | PAPER | |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

| | | |
|------------------------------|--------------------------|------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/814,664 | GRANDE ET AL. |
| | Examiner Jena A. Sold | Art Unit 3765 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 16 January 2007.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) _____ is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The amendment filed on 1/16/07, wherein claims 1 has been amended and claims 2-16 have been cancelled, is acknowledged.

Claim Objections

2. Claim 1 is objected to because the limitation "further wherein said series of stitches are stitched from the edge of either said first or second flat piece of fabric onto the other flat piece of fabric at any angle not perpendicular to either said first or the second flat piece of fabric," is unclear. Specifically, it is unclear if the applicant intends to claim that the angle at which the stitches enter the fabric pieces cannot be perpendicular thereto, as the claim language suggests, or if the applicant intends, in the discussion of perpendicularity, to claim a zig-zag stitch or some variation. As the specification fails to include any discussion regarding the angle of the stitching, specifically that the stitches are not perpendicular to either piece of fabric, Examiner assumes, for the purposes of further examination, that both run stitches and zig-zag stitches fulfill the aforementioned stitching requirements, as applicant discloses the two necktie shaped sections 3 stitched together by a run stitch and a zig-zag stitch (page 8). Additionally, as it unclear whether the applicant intends to claim a zig-zag stitch or some variety thereof, the possibility will be addressed.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, the limitation "further wherein said series of stitches are stitched from the edge of either said first or second flat piece of fabric onto the other flat piece of fabric at any angle not perpendicular to either said first or the second flat piece of fabric" is considered new matter. Applicant has previously disclosed the two necktie shaped sections 3 as stitched together by a run stitch and a zig-zag stitch (page 8), but has failed to discuss the stitching as non-perpendicular to either piece of fabric, nor has the applicant discussed the criticality for this construction.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Aron (U.S. 3,953,894). Aron discloses a reversible necktie consisting of face portions or layers 12, 14, present applicant's first and second flat pieces of fabric in the shape of a tie, which are generally the same shape, length and width. Aron additionally discloses lining 16, which is the same shape as layer 12, 14, but slightly narrower and shorter and is bonded to the back surface 18 of one of the face layers (column 2, lines 1-9), and thus placed between said first flat piece of fabric and said second flat piece of fabric. Layers 12, 14 are sewn together by a line of stitching 24, thus forming the shape of a tie (column 2, lines 10-20). As the stitching is not defined otherwise, said stitching 24 implicitly comprises a series of run stitches, as conventional stitching is run stitching.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Examiner notes that the following rejection intends to address the possibility that the applicant intends the limitation discussed in paragraphs 2 and 3 above to claim a stitch other than an ordinary run stitch, such as a zig-zag stitch.

6. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aron (U.S. 3,953,894) in view of Hall (U.S. 1,824,267). Aron discloses a reversible necktie consisting of face portions or layers 12, 14, present applicant's first and second flat

pieces of fabric in the shape of a tie, which are generally the same shape, length and width. Aron additionally discloses lining 16, which is the same shape as layer 12, 14, but slightly narrower and shorter and is bonded to the back surface 18 of one of the face layers (column 2, lines 1-9), and thus placed between said first flat piece of fabric and said second flat piece of fabric. Layers 12, 14 are sewn together by a line of stitching 24, thus forming the shape of a tie (column 2, lines 10-20). Aron, however, fails to disclose the invention wherein the stitching is a zig-zag stitch, or a variety thereof. Hall teaches securing a lining to a necktie by a row of zig-zag stitches 3. Thus, it would have been obvious to one having ordinary skill in the art at the time of the invention to use zig-zag stitching on the tie of Aron, because zig-zag stitches hold the edges securely but do not hamper the longitudinal stretch or expansion of the fabric (page 1, column 1, lines 43-36).

Response to Arguments

7. Applicant's arguments are moot in view of the new grounds of rejection.

Conclusion

8. Additional prior art made of record and not relied upon is considered pertinent to applicant's disclosure and is cited on form 892 enclosed herewith.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jena A. Sold whose telephone number is (571) 272-8610. The examiner can normally be reached on Mon. - Fri. 9:00 A.M. to 5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on (571) 272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JAS



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PRIMARY EXAMINER
TECHNOLOGY CENTER 3700